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Chair

Mrs. Deborah Schulte

Standing Committee on Environment and Sustainable Development

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● (1105)

[*English*]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): Good morning. Thank you very much, everybody. We are starting clause-by-clause of Bill C-69, an act to enact the impact assessment act and the Canadian energy regulator act, to amend the Navigation Protection Act, and to make consequential amendments to other acts.

Welcome to those who have joined us at the table. There are also some people in the back, so there's a lot of support with us today should we need it.

I'll introduce them. We have from the Department of the Environment, Mary Taylor, Executive Director, Environmental Assessment, Environmental Protection Operations. We have from the Department of Natural Resources, Jeff Labonté, Assistant Deputy Minister, Major Projects Management Office; and Terence Hubbard, Director General, Petroleum Resources Branch. We have from the Canadian Environmental Assessment Agency, Christine Loth-Bown, Vice-President, Policy development sector; and Brent Parker, Director, Legislative and Regulatory Affairs Division. From the Department of Transport, we have Catherine Higgens, Assistant Deputy Minister, Programs; and Nancy Harris, Executive Director, Regulatory Stewardship and Aboriginal Affairs. Welcome back to some of you.

They're here with us today, should we have any questions.

We also have others in the back who may come up should they need to. We have Nicola Contini, Counsel, Canadian Environmental Assessment Agency Legal Services; Barbara Winters, Counsel, Natural Resources Canada Legal Services; François-René Dussault, Counsel, Transport Canada Legal Services; Martha Green, Senior Counsel, Transport Canada Legal Services; Yves Leboeuf, Senior Counsel, Environment and Climate Change Canada Legal Services; and Jean Sébastien Rochon, Senior Counsel, Department of Justice, Resource Development Coordination Unit.

Thank you.

If we are all ready—

Ms. Linda Duncan (Edmonton Strathcona, NDP): I have a question.

I'm noticing that we're still receiving amendments drafted on May 4. The deadline to submit them was April 30, so I wonder why we are still receiving some dated May 4. The members can say them from the floor, but if the cut-off was a cut-off....

The Chair: I think the intention was to give everybody as much notice as possible. There were some drafting errors and some changes. It's your pleasure. They could have been tabled on the floor, but I think people wanted to make sure that everybody had as much advance notice as possible on anything that was going to be discussed. That's why they were distributed.

Ms. Linda Duncan: My question is simple: was the deadline April 29, or not?

The Chair: It was.

Ms. Linda Duncan: If any amendments were submitted after that, people are free to place them on the floor. I just don't understand why some were allowed after that date. We did not submit any more because you said that was the firm date. Any that were submitted after that should be submitted from the floor, not as though they were submitted on time.

The Chair: That's fair enough. Thank you.

Ms. Linda Duncan: It's just in fairness to everyone.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): It's not fair to me.

With all due respect to my colleague, of course, as a non-member of committee, I'm required to be here by the terms of the motion passed by this committee for clause-by-clause consideration, instead of having my rights at report stage. We did our best to get everything in on time. The drafters had a hard time working with this. I did submit one on May 4 and I'm hoping that it will be allowed to be considered, because I'm not allowed to present it at the table today.

I know what Linda is saying. She didn't submit any more. We were up against it. We couldn't get the drafting time, and we submitted one after the deadline. I hope it will be accepted.

The Chair: Okay. We did set a deadline, but we've also had a lot of errors and omissions, and amendments. I felt that it was appropriate to get as much in front of the members as possible, which meant we also had some changes. I understand your point. Let's leave it as—

Ms. Linda Duncan: It's just a question of fairness.

The Chair: What's not fair?

Ms. Linda Duncan: When there's a deadline, there's a deadline, and then there are exceptions for some. I just think we need to stop doing that, because we could have easily submitted more after the date. I don't want to be unfair to Ms. May. There's no reason one of us can't bring it forward on the floor.

That's all I'm suggesting. We can always bring them forward on the floor.

The Chair: I do want—

Ms. Linda Duncan: I just wish we'd stop changing the rules after we agreed to what they are, so that everybody is treated the same. That's all.

The Chair: Linda, I'm just going to say one more thing, and then I really want to get into clause-by-clause.

We also accepted a change of yours after there was a split, so we were trying to accommodate—

Ms. Linda Duncan: It was a drafting error. It wasn't our—

The Chair: I understand, but many of the others are also errors and omissions, so let's accept the package as is. I understand your point. Thank you.

Joël.

[*Translation*]

Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC): Madam Chair, after the discussion we have just had, and based on our feelings since we started to study this bill, we are dealing with it in unnecessary haste. That is what has led to this kind of situation.

I share Ms. Duncan's opinion that rules are rules. Unfortunately, I was not here last week and I was not able to meet the deadline for submitting amendments.

I have stopped submitting them because I play by the rules. Some colleagues may submit amendments after the designated date by claiming an error in translation, an error in the text, or some kind of error, and that's all well and good. But do some committee members have the privilege of submitting an amendment after the deadline? I am not very comfortable with that.

● (1110)

[*English*]

The Chair: Okay, so Joël, just so you know, the members of the committee, at any time during clause-by-clause, can table an amendment on the floor, so you have every right and ability to table what you would like to do on the floor.

What I was trying to do was to give us an opportunity to get as much heads-up on the ones that are going to be coming so that we don't spend a tremendous amount of time trying to understand what people are doing. We have time to do that ahead of the meeting, but please, there's no denying of your rights to table anything you want to bring forward as we move through clause-by-clause. All right?

[*Translation*]

Mr. Joël Godin: Thank you, Madam Chair.

[*English*]

The Chair: Thank you very much, and I look forward to getting started.

Pursuant to Standing Order 75(1), consideration of the preamble is postponed, and I now call clause 1.

(On clause 1)

The Chair: Starting on clause 1, it was requested that NDP-1 be split. We now have NDP-1a.

Ms. Linda Duncan: Could I ask a question?

The Chair: Yes.

Ms. Linda Duncan: Those amendments go to the preamble. I was advised when I inquired that the preamble is reviewed at the end, not the beginning. I'm happy to do it now, if we change what we're doing, but I was advised that the preamble is discussed at the end of the bill.

The Chair: Okay, if you look at the bill, there's a preamble that's for the bill, and then there's a different preamble.

Ms. Linda Duncan: Yes, I know.

The Chair: The preamble that I was talking about is the one at the very front of the bill, not the one in part 1 of the impact assessment act.

Ms. Linda Duncan: Correct, and I've always been told at committee that the preamble gets discussed at the end to see if you need to make any changes after having made changes within the bill. I'm happy to discuss it if we've changed how we're doing this, but just for clarification....

The Chair: For clarification, it is part of clause 1, and we're going to go line by line as long as.... Let's make it clear, we're going to do pretty much all of the impact assessment act, starting with clause 1, so I am quite prepared to go back, as long as—

Ms. Linda Duncan: That's fine.

The Chair: Now you understand. Okay, so here's the issue. The only time we're not going to be able to go back is if we make a change to a line. That then is adopted, and we would need unanimous consent to open that line up again. Otherwise, I'm open.

Ms. Linda Duncan: Okay, great.

The Chair: Thank you.

All right, so you're up with your amendment.

Ms. Linda Duncan: Our first amendment is a simple one, and it is to clause 1, which is the preamble to part 1 of the bill. I want to change it to "ensuring".

The Chair: If you've got (a), if you look, you've got, "(a) by replacing line 11 on page 2 with the following: ensuring sustainability;"

Ms. Linda Duncan: "Ensuring" is the new word. I think it says "promoting".

Hon. Ed Fast (Abbotsford, CPC): "Fostering".

Ms. Linda Duncan: "Fostering sustainability". Thank you very much.

The Chair: Okay.

Ms. Linda Duncan: There were a number of people who recommended that. The reason they thought it was important is that Canada has signed on to the 2030 sustainable development goals. Canada is committed to ensuring sustainability, so it was recommended that should say that it will "ensure sustainability". In the way this act is put together, when we do the impact assessment, it will ensure sustainability.

The Chair: Thank you very much for that.

Are there any questions?

(Amendment negatived)

The Chair: Next we have NDP-1b.

Ms. Linda Duncan: This would add not just impact assessments but also "regional and strategic assessments". A number of witnesses and briefs felt that it was important to be clear right at the start and to reference in the preamble all of the aspects of impact assessment within the bill. It's not just the impact assessment process; it's also for regional and strategic assessments.

● (1115)

The Chair: Are there any questions?

Shall the amendment carry?

[*Translation*]

Mr. Joël Godin: Excuse me, Madam Chair.

[*English*]

The Chair: Go ahead.

[*Translation*]

Mr. Joël Godin: I am trying to go by the electronic version as much as I can. In the document I received, I have amendment NDP-1, but not amendment NDP-1b.

[*English*]

The Chair: It's NDP-1, and you will see that within it, there are paragraphs (a), (b), (c), and (d) within the amendment. They wanted to split it up and go at these it separately.

[*Translation*]

Mr. Joël Godin: Thank you.

[*English*]

The Chair: Got it?

Ms. Linda Duncan: The drafters initially put it all together, but in fact I wanted to bring them in one by one because there may be agreement on one part and not another. You should have received that, but maybe you don't have the updated files. I appreciate the clarification. It is paragraph (b) in the consolidated version that you have.

The Chair: We've been trying to accommodate as much as we can what people want to try to do as we move forward and make it clear.

(Amendment negatived)

The Chair: We go now to LIB-1 on indigenous knowledge.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): This is one of a number of motions that we've put forward to change the term used in the bill from "traditional knowledge" to "Indigenous knowledge". It's in keeping with what we've heard from a number of different witnesses that the act really needs to emphasize indigenous knowledge and not just traditional knowledge. This supports our goal of advancing reconciliation through this legislation. There are a number of different places where this occurs within the bill itself. This Liberal amendment will address that. It's changing the words from "traditional knowledge" to "Indigenous knowledge".

The Chair: Okay. That's clear.

In in the interests of expediency if I could, LIB-4, LIB-5, LIB-16, LIB-46, LIB-57, LIB-60, and LIB-62 are all amendments that talk to the exact same wording in different places.

Mr. Mike Bossio: There is a slight difference in 5, 16, 46, 57, and 60, in that it's "Indigenous knowledge" in place of a phrase that refers to "traditional knowledge" of the indigenous peoples of Canada. This is just say that we should just call it "Indigenous knowledge" rather than "traditional knowledge".

The Chair: Okay. We'll do them separately. Is it exactly the same in LIB-4, which is the definition?

Mr. Mike Bossio: No, once again, that's the definition, so it's not just the word "indigenous" itself.

The Chair: That's fine. I'm just trying to move it along.

Mr. Mike Bossio: It would be LIB-1 and LIB-62 that would actually be changing that. Then there are other changes as well, but those are in the other two acts.

The Chair: Okay. I've got it.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): Only LIB-1?

The Chair: LIB-1, and you're suggesting LIB-62, but I think it's being suggested that we'll just leave it for now.

Mr. Mike Bossio: In LIB-62, it is just the word "indigenous".

The Chair: We will leave it for now. Simplicity is best.

Mr. Sopuck.

Mr. Robert Sopuck (Dauphin—Swan River—Neepawa, CPC): The problem with this amendment is that it completely eliminates other Canadians who have traditional knowledge. I have said over and over in this committee that rural people, farmers, ranchers, loggers, trappers, and so on have a wealth of knowledge about the natural world, but they're always excluded from these kinds of things, especially by the Liberals.

I think what this does is exclude the knowledge that people like my constituents would have—the trappers, farmers, ranchers—from even being considered as part of this particular bill.

I can count as well as the next person, and I know where this is going to go, but I want to get that note on the record.

Thank you.

The Chair: Mr. Sopuck, I didn't see it, but did you bring forward an amendment to talk to that?

Mr. Robert Sopuck: No. I'm commenting on this.

The Chair: Fair enough. That's fine.

Ms. Linda Duncan: I have a comment on it.

The Chair: Go ahead.

Ms. Linda Duncan: That may cause a problem when we get to the part of the bill where traditional knowledge can be deemed confidential. I'm not sure you want to say all indigenous knowledge can be deemed confidential. Unless you talk about traditional knowledge somewhere in the text, that provision won't make sense.

I'm wondering how you're going to resolve that because I know the access to the traditional knowledge is the point of contention by a good number of first nations and other indigenous communities. I haven't heard that they have the same issue with all of the knowledge they may carry.

● (1120)

Mr. Mike Bossio: There are amendments throughout the bill that I will be making that deal with indigenous knowledge, defining indigenous knowledge. There will be many different parts throughout the bill where I will be making amendments in relation to this.

Ms. Linda Duncan: But you're not answering my question. If you change it to "Indigenous knowledge" everywhere, how are you resolving that provision that deals with confidentiality of traditional knowledge if we never reference traditional knowledge in the bill?

Mr. Mike Bossio: I don't know.

Ms. Linda Duncan: I'm going to have to reserve my vote because I need to know what the implications are of that provision.

The Chair: Hang on. Let's just read—

Mr. Mike Bossio: I think as we get through the bill there are other areas within the bill that deal with that specifically. In some instances it will be indigenous knowledge. In some instances it will be traditional. It will be dealt with throughout the bill.

The amendments I'm making are once again focused on what we heard in testimony around indigenous knowledge itself.

Thank you.

The Chair: Before I give the floor to Mr. Fast, for clarification I will read the sentence. I hear your point, but I don't think it really fits right here. It says:

> Whereas the Government of Canada recognizes that impact assessments provide an effective means of integrating scientific information and traditional knowledge of the Indigenous people of Canada into decision-making processes related to designated projects.

It does include "traditional knowledge", but I guess what's being suggested is "Indigenous knowledge".

It's not necessarily touching on what you're saying, Linda. It's just changing the word "traditional" to "indigenous".

Mr. Fast, go ahead.

Hon. Ed Fast: I would like to hear from our civil servants on the distinction that Mr. Bossio is making. You have just read that paragraph from the preamble to the impact assessment act, which refers to "the traditional knowledge of the Indigenous peoples of Canada".

I believe what he's asking for is to replace that term "traditional knowledge"—

The Chair: With "indigenous"....

Hon. Ed Fast: Effectively, you have a redundant term because it says "the Indigenous knowledge of the Indigenous peoples of Canada". Come on.

Mr. John Aldag (Cloverdale—Langley City, Lib.): We could ask for advice from Justice to make a comment on this. It might help provide the clarification.

The Chair: Sure.

Who would like to speak to that? No.

Mr. John Aldag: Don't all speak at once, please.

The Chair: Thank you very much.

Mr. Jean-Sébastien Rochon (Counsel, Department of Justice): Thank you, Madam Chair.

The change was proposed in response to concerns that were raised by indigenous groups. One of the concerns expressed is that the notion of traditional knowledge seemed fixed in time, whereas the fact is their knowledge evolved over time. While it may be based on their traditional way of life, it doesn't necessarily mean that this knowledge must have originated from time immemorial.

That is the gist of the amendment proposed here. I'm not sure if you have any more questions on that.

The Chair: Okay.

Hon. Ed Fast: Mr. Rochon, why are you using the term "indigenous" twice virtually in the same sentence? It doesn't make sense. It's redundant. If you're going to remove the word "traditional" then the whole sentence should be restructured. Again, we're talking about the second paragraph in the preamble.

The Chair: For me, and because our legislative clerk is giving me advice here, and he does manage this, he assures me that there is no problem with redundancy in this sentence.

I don't know if you wanted to chime in, but that's the advice we're getting. It is not a redundant issue. It's defining the knowledge of indigenous people. I don't know if I'm explaining it well, but it's not redundant.

Hon. Ed Fast: Then perhaps we could have an explanation from our civil servants as to the distinction between traditional knowledge and indigenous knowledge.

The Chair: I think we had a lot of testimony from indigenous groups that were talking about the challenge. I don't want to get into the witness testimony again.

● (1125)

Mr. Mike Bossio: Madam Chair, actually, the official just gave that very explanation—

Hon. Ed Fast: It's not satisfactory.

Mr. Mike Bossio: —talking about traditional knowledge versus indigenous knowledge, saying that it does change and evolve over time. It's not just one timestamp saying that this is traditional knowledge.

Once again, I think the timing is probably close to five minutes and we can move to the question.

The Chair: I think we've had a ruling from the legislative clerk that it's not redundant, and we did have a good explanation about not thinking it's something in the past, that it can be current as well and so—

Hon. Ed Fast: With respect, the legislative clerk doesn't make rulings. You do, Madam Chair.

The Chair: I'm hearing you and I'm listening to everybody.

Linda, I'll give you a few minutes. What do you have to add to the conversation?

Ms. Linda Duncan: I have two things. I'm wondering if it makes sense, because then you're saying, "and the Indigenous knowledge of the Indigenous peoples".

The Chair: That's exactly what Ed's point is.

Ms. Linda Duncan: Okay. My second point is that I heard the that recommendation was not just for this provision, but throughout the bill, and I have a problem with this throughout the bill.

What are we voting on?

The Chair: We are voting on just this amendment.

I am getting.... This is the last time.

Hon. Ed Fast: By way of clarification, Madam Chair, are we purging this whole bill of the term "traditional knowledge"?

The Chair: No. We are going to go through and look at every place it comes up. I was going to try to do it in a group, but we are not. We are going to go through every time to make sure people are comfortable.

Hon. Ed Fast: I understand the process. That was a rhetorical question. Are we going to actually purge the term "traditional knowledge" throughout? The argument that has been made by Mr. Bossio and by our civil servants is that the term "traditional knowledge" is too limited and that the term "Indigenous knowledge" is more expansive. Am I hearing from the Liberals and our civil servants that the term "Indigenous knowledge" is now going to replace "traditional knowledge" throughout this bill?

That would be a question for Mr. Rochon.

The Chair: Mr. Rochon.

Mr. Jean-Sébastien Rochon: That would be correct. That is the gist of why we have a definition that indicates that indigenous knowledge is the knowledge of the indigenous peoples of Canada. It's in direct reference to what we consider indigenous peoples' [*Inaudible—Editor*].

The Chair: Thank you very much. I appreciate the discussion.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: The next is NDP-1c. You can find the text within the original NDP-1 in the package of amendments.

Ms. Linda Duncan: Are we in 1.2 or 1.3?

The Chair: We're in NDP-1c.

Ms. Linda Duncan: I submitted them all separately. If you want me to go back to the consolidated one, I'll go back, because I can't follow you.

The Chair: Yes.

Ms. Linda Duncan: The 1(c) is the 1.3. It is the view of a number of witnesses that the second paragraph of the preamble was limiting. At the end it says:

> ...and the [now indigenous] knowledge of the Indigenous peoples of Canada into decision-making processes related to designated projects.

We would like to take out the latter words, "related to designated projects", and leave "decision-making processes" as is. Again, that is because this bill also deals with strategic and regional assessments, which don't necessarily deal with designated projects.

It should say that the Government of Canada recognizes that impact assessments provide an effective means of integrating scientific and indigenous knowledge into all processes for impact assessment, not just the review of designated projects.

The intent is to remove those last four words, "related to designated projects".

The Chair: That's not what the amendment says, but....

Ms. Linda Duncan: It does. It ends at "decision-making processes". That's exactly what the amendment says.

The Chair: Okay.

Are there any questions? Does everybody understand what it is?

Mr. Darren Fisher: We're dealing with one in the several....

The Chair: Yes.

Mr. Darren Fisher: Okay. I see we're on paragraph (c) in NDP-1.

The Chair: We're on the (c) part.

Mr. Darren Fisher: Got it. Yes.

The Chair: We're looking at lines 16 and 17, where it says "decision-making processes related to designated projects".

● (1130)

Ms. Linda Duncan: And my amendment stops it at "decision-making processes".

The Chair: All right. Are there any questions?

(Amendment negatived)

Hon. Ed Fast: Madam Chair.

The Chair: Yes.

Hon. Ed Fast: Just for clarification, we're walking through the bill clause by clause, correct?

The Chair: We're walking through the bill clause by clause, line by line.

Hon. Ed Fast: Yes. In the package that we have of proposed amendments, we have a proposal, CPC-47, which addresses the preamble in Bill C-69.

The Chair: Hold on. I'm looking for 47. Just a second. Let's get to where you are.

Hon. Ed Fast: CPC-47 addresses two paragraphs in the preamble.

The Chair: Okay. That was understood to be the preamble of the bill, which is not this preamble. Let's have a look at what you're proposing.

Hon. Ed Fast: We're looking at the preamble of Bill C-69.

The Chair: Just give me the page.

A voice: It's page 479.

The Chair Okay. That's 26 to 32 on page.... You're at a different spot.

Hon. Ed Fast: No, I understand. Here's the problem. You have a proposed amendment that comes from the Conservative members, and it's right at the back of the package of amendments, so I assume that we will be addressing that when we get to that part of the bill. Correct?

The Chair: Yes.

Hon. Ed Fast: And it will be brought forward ahead of other amendments. Right now it's the last amendment in the package.

The Chair: It will be done. We are doing the preamble at the end. That's why you're at the back, it's because the preamble's coming at the end, after we go through the bill. Okay?

Hon. Ed Fast: Okay. Thank you for that clarification.

The Chair: You're welcome.

We are now at NDP-1d.

Linda.

Ms. Linda Duncan: Yes.

This amends....

The Chair: Lines 19 to 22 on page 2.

Ms. Linda Duncan: It's the third paragraph of the preamble to part 1 of the impact assessment act, and the recommendation from a number of those who testified and submitted briefs was to add the word "value". In other words, it would say:

> Whereas the Government of Canada recognizes the value and importance of meaningful public participation at all stages of impact, regional or strategic assessments

The problem with the way it's drafted right now is that, by the interpretation rules, if you specify one, you're excluding the rest. It says, "including the planning phase". Our preference is that it say:

> the value and importance of meaningful public participation at all stages of impact, regional or strategic assessments

The Chair: Okay.

Ms. Linda Duncan: The second part says:

> Whereas the Government of Canada is committed to providing Canadians with the opportunity and means to participate in impact, regional, and strategic assessments, and with full and timely access to

Then it goes into the information.

Those are the two changes to that: adding in "value" of public participation; taking out the specific reference just to the planning stage, and saying that it would be to all stages of impact, regional, and strategic assessments; and that it would provide the opportunity and means to participate in the impact, regional, and strategic assessments and with the full and timely access to information that they need.

The Chair: Okay.

Linda, if this is adopted—I just want to bring this to your attention—NDP-2 cannot be moved, because there's a line conflict then. I just want to make sure you're aware of that.

Ms. Linda Duncan: I'm looking at what the drafter did, and she divided that into two, and that was the wisdom of our official drafters.

The Chair: I'm just letting you know that if we adopt this, then NDP-2 cannot be moved.

Shall the amendment carry?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We're on NDP-2.

● (1135)

Ms. Linda Duncan: This next one goes to the issue. It's deals with the fourth paragraph of the preamble, and would replace what is said there with the following:

> Whereas the Government of Canada recognizes the need for transparent and accountable decision-making in relation to impact, regional and strategic assessments;

The Chair: We're on NDP-2.

Mr. Joël Godin: No, it's NDP-1e.

The Chair: No, we're going to go back. We're trying to go line-by-line. I'm trying to keep up with the amendments that are on the lines.

Ms. Linda Duncan: They are lines 25 to 28.

The Chair: The top part are lines 19 to 20.

Mr. Darren Fisher: Linda is still on NDP-1, Madam Chair.

The Chair: I know, but I'm moving her to NDP-2.

Ms. Linda Duncan: Are you moving me to NDP-2?

The Chair: Yes. We're doing the lines. We're trying not to get too far ahead of ourselves. We're doing it line by line.

Ms. Linda Duncan: Okay.

The Chair: Let's do it line by line, lines 19 to 20.

Ms. Linda Duncan: Let's go back, then. They are lines 19 to 20?

The Chair: Yes.

Ms. Linda Duncan: That recommendation, again, makes clear that public participation is important at all stages of the impact assessment process.

The Chair: We did have that discussion, so shall the amendment carry?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: Mr. Fast.

Hon. Ed Fast: Madam Chair, I want to make sure that each of these is a recorded vote.

The Chair: A recorded vote means that we have to go around the table.

Hon. Ed Fast: Yes.

The Chair: Are you requesting a recorded vote on everything that we're doing?

Hon. Ed Fast: Absolutely.

The Chair: This one's done, so we're going forward.

I want to make sure that we're clear. By asking for a recorded vote, you're slowing it down, which means that we're going to have less time for discussion on the amendments. That's where we're going as a result of that.

Hon. Ed Fast: Yes.

The Chair: That's fine.

Hon. Ed Fast: With respect, Madam Chair, the decision to restrict the time for a fulsome discussion of this bill was made by the government members of this committee, not by the remaining members of this committee.

We've already made the point that this bill, which is arguably the most important bill this Parliament will consider this session, is really being shortchanged, because of the time limitations that have been placed on witnesses, and on the discussions of the different amendments to the bill.

The Chair: In response, I have tried several times to get more meetings and longer meetings, which other committees do when they have important bills in front of them. We have received some co-operation, but not as much as we may need to be more detailed. It's really up to you guys how you want to use your time in the committee, and by doing recorded votes, it's clear that we would be slowing it down. I'm sorry about that, but—

Hon. Ed Fast: That's not the purpose, Madam Chair.

The Chair: I hope not.

Hon. Ed Fast: You're imputing a motive on my part that doesn't exist. We want to make sure that the process is very clear on how we as members around this table vote.

The Chair: All right, we're on NDP-1e.

Ms. Duncan.

Ms. Linda Duncan: Okay. That replaces lines 25 to 28, and we would instead put:

> Whereas the Government of Canada recognizes the need for transparent and accountable decision-making in relation to impact, regional and strategic assessments;

That reflects the mandate letters issued by the Prime Minister to all of the ministers, including the Minister of Environment and Climate Change, the Minister of Natural Resources, the Minister of Transport, etc.

It states clearly the need for transparency and accountability in decision-making and applies to all aspects of impact assessment under the bill.

● (1140)

The Chair: All right. Is there any discussion?

We'll do a recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: Thank you.

The next one is amendment PV-1.

Ms. Elizabeth May: Thank you, Madam Chair. I'm aware of how much work we have ahead of us and how little time. Forgive me, but I have to put on the record that I'm here only because of a motion passed by this committee. I would rather you hadn't passed that motion, because it restricts my rights. I could otherwise bring my motions to the floor of the House at report stage, but required as I am by your decision as a committee, I'm bringing forward 150 amendments to Bill C-69. I hope we can have proper debate on all of them. I sympathize with the situation in which you all find yourselves.

My amendment here is to improve the bill with the full recognition of the United Nations Declaration on the Rights of Indigenous Peoples. If you go to page 2, line 35, I'm leaving in the language "to fostering reconciliation and working in partnership with them;". That language doesn't go, but after the recognition of section 35 of the Constitution, I insert the language:

> and by the Declaration on the Rights of Indigenous Peoples

I'll make a quick note to let you know that when we get to amendment PV-2, in that section, I have a definitions section so that anytime we use the words "Declaration on the Rights of Indigenous Peoples", it refers specifically to the United Nations Declaration on the Rights of Indigenous Peoples.

[*Translation*]

I feel that my first amendment, PV-1, corresponds exactly to the will of the Government of Canada.

[*English*]

The Chair: If I could, there are several amendments in which you raise this very same issue, and those are PV-1, PV-2, PV-7, PV-11, PV-13, PV-19, PV-26, PV-61, PV-69, and PV-78. They all say the same thing where it comes up in the document in different places. Would you be all right with our addressing all of them together, given that they're the same concept?

Ms. Elizabeth May: Yes. I'd also add that my amendment PV-84 deals with the issue of how to phrase properly what first nations want around traditional knowledge.

The Chair: That's a bit more of a discussion, and I don't want to make it confusing. I'll just leave that one out.

Ms. Elizabeth May: I have a great fear that we will never get to part 3 of this bill. In order to help a government that has forced us into a situation where we don't have enough time, I will agree to that, Madam Chair. You can vote on all my amendments to insert "the United Nations Declaration on the Rights of Indigenous Peoples" into this act, but I really hope that in moving it along swiftly, we move it along positively.

The Chair: Okay. I'm going to repeat them again for everyone, so you know what you're voting on.

PV-1, PV-2, PV-7, PV-11, PV-13, PV-19, PV-26, PV-61, PV-69, and PV-78. That's all in part 1.

Mr. Fast.

● (1145)

Hon. Ed Fast: Thank you.

We oppose this each time it appears, as has just been suggested. The challenge is this: We have a Constitution. We have a duty to consult. We have the courts that have interpreted the duty to consult for decades now. Most Canadians and most lawyers understand, generally, what that duty looks like. We're imposing and inserting UNDRIP—which is the declaration on the rights of indigenous peoples—on which there is so much disagreement on what it actually entails. Does it entail an absolute veto, a partial veto, or no veto at all? We've seen testimony at this table from our first nations. Some suggest there is no veto.

Voice: [*Inaudible—Editor*]

Hon. Ed Fast: Yes, we had that testimony.

Other first nations suggest there is a veto power implied in UNDRIP. When we insert that now into this legislation, we immediately create more uncertainty and guarantee that there will be litigation going forward. For the sake of clarity, let's base this legislation on our Constitution and on section 35, as suggested in the preamble right here. That is why I'll be opposing this amendment.

The Chair: Okay, thank you very much.

Ms. Duncan.

Ms. Linda Duncan: Thank you.

If we're going to carry forward from Ms. May, are we also going to carry forward all the amendments that I put forward and the Liberals put forward that say close to the identical thing? It would make sense, if we're going to be efficient, because it's also in my first amendment.

If Ms. May would accept it, I would like to amend her amendment to specify "adopted on September 13, 2007", so that we are specific about which United Nations declaration it is. When it has been cited, normally that information is also given. That would be my first recommendation.

We also heard from a number of indigenous representatives—from the Métis, the Inuit, and first nations—all of whom called for this. We have also received, even past the date of the amendment, many briefs from indigenous governments, organizations, and entities calling for this amendment.

It's also important to keep in mind that at the Assembly of First Nations meeting in November of last year, the justice minister committed that, going forward, all federal laws would reflect or incorporate the UNDRIP. Regrettably, it wasn't in the sustainable development act. That amendment wasn't accepted by this committee, even though I suggested it. I would be deeply encouraged if we did finally do that. Recently, we even have Bob Rae, former leader of the both the NDP and Liberals, who has stated in the *Law Times*:

> It's a little strange to me that the federal government would announce with... great...fanfare that it's adopting the UN declaration as its benchmark and not put it into the major piece of environment impact legislation. I find it, frankly, quite strange...This certainly doesn't clarify what indigenous people have been saying for some time is reflecting their concerns about the nature of development.

Finally, in response to Mr. Fast's comments, heavens, we have a lot of litigation over what the Constitution says, including section 35. I don't think that's a valid argument for us not to reflect the UNDRIP in this bill. Simply by incorporating it, it would say that all of the provisions of the UNDRIP would be arguable, in the same way that it's arguable that this is how you interpret section 35 of the Constitution.

The Chair: Given your comment at the beginning, I wanted to let you look at PV-2, which we're going to be talking about adopting in conjunction with this. It gives a definition that talks all about what you wanted to add. That's already in the motion that Elizabeth brought forward in PV-2. If we adopt it in the bunch, then that will be in there. Any time you see what you're seeing in terms of the declaration on the rights of indigenous people, the definition is here explaining the details.

Ms. Linda Duncan: It includes the date?

The Chair: Yes. That's on page two.

Ms. Linda Duncan: I don't know if we'll even accept the definition. If I have comfort that the Liberals will accept the definition, then I'm okay with not having an amendment.

● (1150)

The Chair: They're all together. We've bunched them together, so that it's going as PV-1, PV-2, PV-7.... Anyway, I've already gone through it. It's part of it.

Ms. Linda Duncan: But we have not also included all the NDP and Liberal changes, and they could be in different parts of the act.

The Chair: We're doing Elizabeth's in a group.

Ms. Linda Duncan: Okay.

The Chair: There are other ones that will come up, but this.... Let's do what we said we're going to do.

Next up is Mr. Amos.

Mr. William Amos (Pontiac, Lib.): Thank you, Madam Chair.

I appreciate the intent of Ms. May and Ms. Duncan. I think we are all on the same page. There's a desire to reflect the testimony that we received from so many indigenous groups. There's a desire to see UNDRIP incorporated.

As you are aware, I have several amendments on this topic, specifically LIB-2, LIB-7, LIB-79 and LIB-83. My suggestion would be, with respect, Madam Chair, for simplicity's sake and efficiency's sake, that we take a look at these holus-bolus: the references, the amendments proposed by Ms. Duncan on UNDRIP and by Ms. May, and my own as well. That way, we can dispose of a great number more at the same time.

At the end of the day, I think we're looking to ensure that we have the most secure and solid incorporation of UNDRIP into this bill, and I would submit that these amendments that I've proposed are going to help us achieve just that.

The Chair: Okay. It's a suggestion. Before I give it over, it's going to take a few minutes for the legislative clerk to actually pick up all the right ones for that in the document you have. You've mentioned four of them.

Mr. William Amos: Yes, four.

The Chair: Linda, how many did you have?

Ms. Linda Duncan: I'm going to have to sit down and go through all of them. They're all throughout the whole—

The Chair: Yes, I don't think I can do this unless you guys know exactly what it is. Let's let that go—

Hon. Ed Fast: You can't do this—

An hon. member: All in one—

The Chair: We know exactly Elizabeth's.... We can look at hers, so let's leave it with the ones we've identified and then we'll see if we can be more.... If you guys can work on that, on bringing them together, we'll try. Okay? Where we can, we'll try. Okay.

Ms. May.

Ms. Elizabeth May: Madam Chair, my procedural rights here are odd and derive entirely from the motion you passed. If I were a member of committee at this point, I would move to take my amendments off in favour of Will's. I don't have the right to do that. My motions are deemed moved by the process of this committee.

That's just to say that I really want to see the United Nations Declaration on the Rights of Indigenous Peoples in this bill. If it's from a Green Party amendment, a Liberal amendment, or an NDP amendment, I'm not fussy about it. Do what you would like to do to expedite that.

The Chair: Okay. Thank you very much.

Mr. Fast.

Hon. Ed Fast: Well, Madam Chair, you're suggesting that we find a way of grouping amendments and passing them all in one swoop. Is that correct?

The Chair: Only where they are repetitive. If we agree with the concept and agree on the principle and it's reflected identically through the document, then we could potentially do that. I'm not saying that I'm going to do it in every case—

Hon. Ed Fast: That would be a big mistake. I believe we received the bulk of the amendments this past Thursday. There are 400 of them—400—and we're supposed to know exactly which ones are common and should be passed in sort of a smaller omnibus motion, and which ones should be done individually...? It's unreasonable. We are going to end up with a really sloppy product. This has been a sloppy process as it is, but to have a sloppy product at the end of that process would be a travesty, because of the importance of this legislation, so could I please ask that we go through this clause by clause by clause, with no grouping of amendments? We deal with them per clause and in order.

The Chair: Just so you know, we are doing the one clause, clause 1. I am taking it down the line. We're doing line by line—

Hon. Ed Fast: So far, yes. I'm happy with that.

The Chair: Okay? Where there's identical wording and you're changing one word for another word, I understand that you are indicating that you would need to know the context of that to really appreciate it. Definitely, I know there's a lot, so take a look.

Hon. Ed Fast: We're not dealing with one word, Madam Chair. We're dealing with a much larger phrase—

The Chair: In this case—

Hon. Ed Fast: —and if you actually transpose it to different areas of the bill, the context might change. I think we need to deal with each clause individually. If that's what you're saying you're planning on doing, I'm totally in favour of that, and I applaud you for that.

● (1155)

The Chair: Thank you.

Mr. Bossio.

Mr. Mike Bossio: Madam Chair, can we please try to stick to the five minutes? We're never going to get through this. It's been well over five minutes.

Can we please move to the vote?

The Chair: Mike, just so you know, it's five minutes per party. I am tracking it up here. So, please, I have the clock, and I'm keeping an eye on it.

Mr. Mike Bossio: Thank you.

The Chair: I'm being mindful of it.

Ms. Linda Duncan: Can I ask a question, Madam Chair, just for a level of comfort?

The Chair: Sure.

Ms. Linda Duncan: The definitions occur after the preamble. Do the definitions apply, then, to the preamble?

The Chair: Yes.

Ms. Linda Duncan: Well, no, I want the opinion of the legal....

The Chair: Okay.

Ms. Linda Duncan: Do the definitions go backwards in the bill?

A voice: In part 1.

The Chair: Yes, in part 1.

Ms. Linda Duncan: So in part 1, any definitions that occur after the preamble also apply to the preamble of the bill?

The Chair: Yes.

Ms. Linda Duncan: So the definition of UNDRIP, even though it's not stated....

I just want to make sure we're doing it according to Hoyle.

The Chair: Do you want confirmation of that?

Ms. Linda Duncan: No, I think the....

The Chair: You can confirm it with the officials, if you want.

Ms. Linda Duncan: No, the drafters are the ones who will know that.

The Chair: And he's saying yes.

Does anybody want to mention something that we aren't doing right?

A voice: [*Inaudible—Editor*]

Ms. Linda Duncan: We do? Okay.

Do you agree with that?

Mr. Jean-Sébastien Rochon: The definition is certainly applicable to the entire statute. The preamble forms part of it. If there's any doubt, the references to UNDRIP inside of the statute will serve to interpret as well what is in the preamble, I would think.

The Chair: Okay?

Ms. Linda Duncan: [*Inaudible—Editor*]

The Chair: Yes.

I understand the point that Mr. Fast has made. In this particular one, I know that you may not have taken the time, but I've taken the time, to look, and it is very clear that this is just a definition—defining what UNDRIP is and just giving the details. It's not a complicated change that's going to change context depending on how it's used.

So I will keep these ones lumped together, but I'm mindful of the comment. Going forward, I think we'll try to keep them going individually through.

Yes, Mr. Fast.

Hon. Ed Fast: On a point of order, Madam Chair, you have just suggested that I didn't take the time to review the amendments.

The Chair: Oh, I'm sorry. I had just wanted to say that I had taken the time.

Hon. Ed Fast: I'll make very clear what I said. I said that on Thursday of this past week, over 400 amendments were dropped on our desk for review. That is a challenging process, especially when you're trying to group definitions and then have them apply throughout the legislation.

Just to be clear, we have done our work on these amendments, but it is a challenging process. My guess is that at the end of the day, we're going to have a less than optimal outcome with this legislation.

The Chair: Point taken. I appreciate your point. I did not mean to imply that you hadn't taken the time. I know that I had taken the time to look at these particular ones where they came up. All the different amendments that were proposed were exactly the same in terms of their definition of UNDRIP and were just adding extra information. They're not changing the context. They're not changing the meaning. They're just giving information.

I would like to accept that we do these together, and then, going forward, we'll do them individually. Okay?

These are PV-1, PV-2, PV-7, PV-11, PV-13, PV-19, PV-26, PV-61, PV-69, and PV-78.

Shall the amendments carry?

An hon. member: I'd like a recorded vote.

Ms. Linda Duncan: We're only voting [*Inaudible—Editor*]

Ms. Elizabeth May: Just mine.

The Chair: It's just on the ones I mentioned. They're just on Elizabeth May's.

Ms. Linda Duncan: Does that mean [*Inaudible—Editor*] missing?

The Chair: We're voting, okay?

Go ahead—

Ms. Linda Duncan: I don't know if any are missing. It's hard to....

The Chair: No: we're not doing yours or the Liberal ones now. We're just doing PV-1, PV-2, PV-7, PV-11, PV-13, PV-19, PV-26, PV-61, PV-69, and PV-78.

Ms. Linda Duncan: I'd like to make a suggestion.

The Chair: I—

Ms. Linda Duncan: No, seriously, okay? If we can delay the vote on this one—

The Chair: No.

Mr. Mike Bossio: On a point of order, Madam Chair, the question has been called, right?

The Chair: I have called the question for the vote, please. We've had discussion. We've now gone 15 minutes on it, and that's the time I've given to it.

Let's call the vote.

(Amendments negatived [See *Minutes of Proceedings*])

● (1200)

The Chair: Now we're back to NDP-1f.

Ms. Linda Duncan: Guess what? It's that line 35 of the preamble be amended and replaced with the following:

> *tion Act, 1982*, and by the United Nations Declaration on the Rights of Indigenous Peoples, adopted on September 13, 2007, and to fostering reconciliation and

The Chair: We've had quite a bit of discussion on this. Is there any further discussion around the table?

Ms. Linda Duncan: Mine is slightly different.

The Chair: I know. I see that.

Ms. Linda Duncan: "and to fostering reconciliation" has been added.

The Chair: Is there any discussion?

(Amendment negatived: nays 7; yeas 1 [See *Minutes of Proceedings*])

The Chair: Next up is amendment Liberal-2.

Mr. Amos.

Mr. William Amos: Thank you, Madam Chair.

To return to what I was mentioning previously, we are fully supportive of the integration of UNDRIP into this bill. There was some very important testimony brought to us. There are four amendments that I'm bringing that reflect this interest.

LIB-2, which we're looking at right now suggests that we should be referencing UNDRIP in the preamble. LIB-7 would ensure the implementation of the impact assessment act in a way that reflects commitments to the rights of indigenous peoples. LIB-79 would incorporate a reference to UNDRIP in the preamble to the—

The Chair: Do them individually.

Mr. William Amos: We're going to do them individually? Okay, I'll stick with LIB-2.

The Chair: Yes, let's just move along.

Mr. William Amos: I think my colleagues have spoken adequately to the importance of it, and I would simply suggest that we move straight to a vote.

The Chair: Is there any discussion?

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: Next up is NDP-1g.

Linda.

Ms. Linda Duncan: Yes, that's on line 38 of page 2, and it changes "the importance of cooperating with jurisdictions" to "the importance of cooperating and coordinating with jurisdictions". I recall that in the text of the bill, they reflect both of those, so I think it's important in the preamble to say that.

The Chair: Thank you.

Is there any discussion?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We're now on NDP-1h.

Linda.

● (1205)

Ms. Linda Duncan: We are now on page 3, replacing lines 1 to 11 as follows....

Again, this is consistent with what intervenors have called for. It would expand the subject matter to include impact assessments and regional and strategic assessments.

For the second "Whereas", which starts at line 8, the amendment replaces it with the following:

> Whereas the Government of Canada recognizes that impact, regional and strategic assessments contribute to Canada's ability to meet its international commitments in respect of the environment and climate change;

Again, it is making the point of covering all three types of impact assessment in the act. The act is very specific. It talks about impact assessment. It talks about regional assessment, and separately it talks about strategic assessment.

The Chair: Thank you.

(Amendment negatived: nays 8; yeas 1)

The Chair: Next is Ms. Duncan, on NDP-1i.

Ms. Linda Duncan: Yes. It relates to lines 14 and 15 on page 3. Currently, the preamble only speaks of the importance of encouraging innovative approaches and technologies to reduce adverse changes. This one would change it to "and technologies to avoid and ameliorate adverse changes to the environment", and it also adds in "cultural conditions", which was a strong recommendation by many witnesses and in many briefs.

The Chair: Is there any discussion?

(Amendment negatived: nays 8; yeas 1)

The Chair: We have NDP-3. As a ruling, the vote will apply consequentially to NDP-57. That's on page 241. If adopted, NDP-4 cannot be moved because there's a line conflict.

Ms. Duncan, do you understand?

Ms. Linda Duncan: We're already on NDP-4?

The Chair: We're on NDP-3, and I'm telling you that the vote will apply consequentially to NDP-57, which references page 241. Moreover, if it's adopted, NDP-4 cannot be moved because then there would be a line conflict.

Ms. Linda Duncan: If it's adopted.

The Chair: If it's adopted, yes.

Mr. Fisher.

Mr. Darren Fisher: Are we voting on this the way we did on NDP-1 with the (a), (b), (c), and (d), or all—

The Chair: No, it's on the whole thing.

Mr. Darren Fisher: Okay, perfect. Thank you.

The Chair: They didn't ask to split this one.

Ms. Linda Duncan: Yes, I don't know why the drafter drafted it the way she did for me and not for others, but that's what she did. She was being efficient.

This is on lines 8 to 12 on page 4. It's intended to expand what is considered to be a designated project.

Right now, those are carried out in Canada on federal lands and designated by regs. That's by the cabinet or by the minister. We include section 112 in the amendment because the minister can also make regulations, and for some reason, that is not mentioned. So we're adding in not just paragraph 109(b), which is cabinet power, but also section 112, which is the ministerial regulation-making power. Added to that, we have:

> (c) may have effects on
>
> (i) the outstanding universal value of a World Heritage site found on the United Nations Educational, Scientific and Cultural Organization World Heritage List,
>
> (ii) one or more species at risk, as defined in subsection 2(1) of the Species at Risk Act, or on their habitat,
>
> and
>
> (iii) migratory birds, as defined in subsection 2(1) of the Migratory Birds Convention Act, 1994, or
>
> (iv) transboundary waters on a transboundary airshed; or
>
> (d) may have significant adverse effects on any Indigenous group or the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the Constitution Act, 1982

I am adding in here, "and as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples."

The strong feeling, particularly as put forward by indigenous witnesses, was that the definition of "designated project" is too narrow. This adds a lot of jurisdictional law-making powers for legislation that has already been enacted that would consider it to be a designated project.

● (1210)

The Chair: Okay.

Ms. Linda Duncan: It includes the impacts on indigenous peoples.

The Chair: Thank you.

Go ahead, Mr. Fast.

Hon. Ed Fast: I was intrigued by the reference to jurisdictional law-making powers. This is the classic case of strangling development in red tape. There are more criteria and more challenges for any developer who wants to come to Canada to invest in our economy. That is the problem. That is why we see record levels of investment fleeing our country. It's because we're strangling businesses with red tape and we're taxing them to death. I hope the message gets through to this Liberal government that we cannot afford to do this.

To be fair, this is a proposal by the NDP, but it's just taking it one step further, with more red tape.

What are we going to do to our economy in the long term? This is a huge step backwards. There's been a very clear signal sent to the international investment community that Canada is one of the last places right now that you want to invest in. This would just exacerbate that problem, Madam Chair.

The Chair: Is there any discussion on this or can we move right to the vote?

Ms. Linda Duncan: I would like to respond.

The Chair: Okay.

You have a few minutes left in your five minutes.

Ms. Linda Duncan: It could be seen as going backwards or it could be seen as going forward.

The government has committed to restoring public faith in the impact assessment process. Before the Harper government's evisceration of the federal assessment law, these triggers used to exist. Any matter that was under federal jurisdiction, in fact, would trigger a review.

What is happening is that under this bill, with its very narrow definition of designated project, unless the minister and cabinet decide to list a specific project, it's not going to be covered by the bill. There is very, very deep public concern. One of the criteria included here, the one dealing with world heritage sites, was included specifically because of the Mikisew Cree and their experience with the federal government refusing their continuous requests for a federal assessment of the impacts of both the Site C dam and oil sands operations on Wood Buffalo National Park, a world heritage site. Without these additions, they have no faith that a federal assessment will ever be triggered. That is why they have specifically requested that these provisions be added.

There's also the concern that proposals for impact assessments of national parks are continually rejected. There are apparently 500 examples of that happening. So there is strong support for expanding these criteria.

The Chair: Okay. I just want to remind everybody that the committee did pass a motion that basically restricts each party to five minutes for each clause—not for each amendment. I'm being very generous, but I want people to stick to discussing the amendment, or I'm going to have to cut them off. I don't want to do that. I want to stay focused and to try to get through the amendments, and to discuss those rather than other things that may be on members' minds.

Shall the amendment carry?

Some hon. member: Can we have a recorded vote?

The Chair: Okay.

(Amendment negatived: nays 8; yeas 1)

The Chair: That did not carry.

Linda, that gives you a chance to bring forward amendment NDP-4.

● (1215)

Ms. Linda Duncan: This involves page 4, lines 9 and 10. It deleted from (b), under "designated project", the phrase "or designated in an order made by the Minister under subsection 9(1)".

I don't know why, but that's the proposal.

The Chair: Okay.

Linda, I just want to bring to your attention that on this one, the vote will apply consequentially to amendment NDP-20. I just want to make sure you're aware of that.

Is there any discussion on amendment NDP-4?

Ms. Linda Duncan: How does that apply to NDP-20?

The Chair: Let's just turn to NDP-20 on page 49. It references the same paragraph. NDP-20 seeks to replace line 9 on page 13 with the words, "is referred to in subsection (1)." the following:

Ms. Linda Duncan: It only references proposed section 9. I don't see why that would remove NDP-20.

The Chair: I'm not sure, either.

Ms. Linda Duncan: Let's deal with it when we get to it, but I see absolutely no rationale for that at all.

The Chair: I am looking at it, and I'm not entirely clear. The analysis was done. Let's take a three-minute break, so we can get the details.

● _____ (Pause) _____

●

● (1220)

The Chair: Order, I'd like to start the meeting again.

Linda, just to be clear here, NDP-4 is a definition, and you're taking out the piece that reads, "designated in an order made by the Minister under subsection 9(1)." In the definition, you're taking out the reference to the minister designating.

In NDP-20, you talk about what the minister must do in designating. So these two amendments don't go together. You don't want to take it out of here, if you want to have it dealt with in NDP-20.

Ms. Linda Duncan: I disagree. It's a completely different issue.

The Chair: Well, one's a definition.

Ms. Linda Duncan: In proposed section 9.... Was that on page 12?

Ms. Linda Duncan: Yes, page 12.

The Chair: In proposed subsection 9(1), it has "The Minister may", and you have "must". Why would you take it out of the definition if that's what you want to do in NDP-20?

Ms. Linda Duncan: Because we are changing what proposed subsection 9(1) says. So I've lost this one. My change to proposed subsection to 9(1) stands. It didn't pass, anyway, so the recommended change I have—

The Chair: We haven't voted on it.

Ms. Linda Duncan: Well, come on. The Liberals are going to vote down every amendment of mine. You know it will happen.

● (1225)

The Chair: Let's not prejudge it. Let's just try to work on each one as fast as we can.

I'm just looking at this, and it doesn't seem consistent. I know you are changing it, but it's taking the element and the definition that indicates that the minister has some jurisdiction here in designating a project. It wouldn't be consistent, so my ruling is that it's not consistent.

Ms. Linda Duncan: It is consistent. My amendment NDP-20 completely changes that section. It has no relation.

The Chair: Linda, I'm just going to tell you that, in your amendment NDP-20, you give the minister some powers, which you are taking away in the definition over in "designated project", so they don't—

Ms. Linda Duncan: If it passed....

The Chair: Well, I'm just letting you know that I assume things are going to pass until the time—

Ms. Linda Duncan: I'm assuming it won't pass.

The Chair: —and we make sure that we're legislatively accurate in what we're doing. If we pass this one, then it gives you a problem in your next one.

Ms. Linda Duncan: No, because my wording for a new section 9 doesn't even talk about "designate", so there is no conflict.

The Chair: I think you are not hearing it from me, so let me ask the legislative clerk if he can explain it better than I did.

Mr. Olivier Champagne (Procedural Clerk): The way I see it, it is precisely because in NDP-20 you are removing the concept of designation. In order for the bill to be consistent, it needs to be removed in the definition as well. Otherwise, the bill is inconsistent. There are missing elements. That's why I think they have to be together to work.

Ms. Linda Duncan: I beg to differ. When you look at my NDP-20—

Mr. Olivier Champagne: There is no notion of the minister making a designation.

Ms. Linda Duncan: That's correct. In my new section 9, there is no mention of the word "designate". Exactly.

The Chair: Exactly.

Mr. Olivier Champagne: Exactly. It wouldn't make sense to, let's say, defeat NDP-4 and adopt NDP-20. We can ask the officials.

Ms. Linda Duncan: I beg to differ. If you look at my NDP-20, frankly, it's 100% consistent with the bill I already have, which was tabled in the House. It doesn't even mention the word "designate", so there is no contradiction in it.

The Chair: Okay. We're going to move ahead.

Is there any other discussion on this amendment?

Does NDP-4 carry?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Next is NDP-5.

Ms. Linda Duncan: I don't even know why I bother.

The recommendation is to replace line 16 on page 4 to add in "regardless of whether the effects are within the control of a proponent, that would permit the carrying out, in whole or", and then it says "in part".

That clarifies the best practice that all potential effects of a project are assessed, whether or not the proponent directly controls them. There are a good number of legal organizations that have proposed this, including Ecojustice, Nature Canada, and West Coast Environmental Law.

The Chair: Is there any discussion?

An hon. member: A recorded vote please.

(Amendment negatived: nays 8; yeas 1)

The Chair: On NDP-6.

● (1230)

Ms. Linda Duncan: If you go to page 4, lines 23 to 24 of the bill, there is the definition of "effects". The first thing the amendment does is to add the word "cultural". We have had as recently as today a comment, in addition to all the recommendations by many of the witnesses and in many of the briefs, including indigenous ones, that cultural heritage should be included. After all, it is part of the SDG, according to Julie Abouchar, Toronto partner of Willms & Shier Environmental Lawyers. She says that cultural heritage needs to be considered when companies conduct environmental assessments. That includes the elders through interviews, incorporating oral histories and getting traditional knowledge from the people impacted by the project, including their feelings of the land.

The Chair: Thank you very much.

Mr. Amos.

Mr. William Amos: Thank you, Madam Chair.

We will be opposing these changes. It's our belief and understanding that cultural aspects are included in the social dimensions of this definition.

We do, though, recognize the need for some greater clarity on the factors to be considered in assessments, and that's why we'll be proposing a change to the definition of "effects". That will come in Liberal motion 3, which will amend the definition of "effects" to clarify that this includes both positive and negative consequences.

The Chair: Okay.

Monsieur Godin.

[*Translation*]

Mr. Joël Godin: Madam Chair, I am getting lost in the French version.

I do not know which sentence the amendment that the NDP is proposing refers to. It says that it refers to lines 16 and 17 on page 5. The proposed change starts with "taires", but which word does it go with?

[*English*]

The Chair: So you found the section, "Effects".

Mr. Joël Godin: Yes.

The Chair: She's adding quite a bit, including the word "cultural" just after "health", and then at the end, "consequences of these changes".

[*Translation*]

Mr. Joël Godin: At the moment, the word "sanitaires" does not appear in the clause.

[*English*]

The Chair: It's line....

[*Translation*]

Mr. Joël Godin: In the version I have in my hand, it says, on line 15, "soit aux attributions que l'autorité fédérale doit exercer pour permettre l'exercice en tout ou en partie d'une activité concrète". The word "concrète" is on line 17.

[*English*]

The Chair: I'm at the end of line 15.

We're wondering what version you have. Do you have the original one we got?

Mr. Joël Godin: I don't know.

[*Translation*]

The one the clerk just gave me.

[*English*]

The Chair: No, page 5 of the bill.

Mr. Joël Godin: Yes.

The Chair: We have it here, and it definitely is. Do you want to see?

Mr. Joël Godin: Sorry, Madam Chair.

[*Translation*]

I was looking at page 6. Please excuse me, it is my mistake. I apologize.

[*English*]

The Chair: That's okay. I think we're all going to have a couple of hiccups as we go through this. No worries.

(Amendment negatived: nays 8; yeas 1 [See Minutes of Proceedings])

The Chair: PV-3.

Ms. May.

Ms. Elizabeth May: Thank you, Madam Chair.

This is very similar to the one we just looked at, and I'm disappointed by the argument of my Liberal friends that "cultural" is automatically subsumed within "social". It was clearly stated in the expert panel that culture is a fifth pillar of sustainability. We can hope it will be read into "social", but there's certainly no damage done by improving the bill. We've rejected so much of what the expert panel recommended, but surely ensuring that cultural conditions are expressly included in this definition.... It's just to look at changes to the environment, health, social, cultural, or economic conditions.

In looking at the impact assessment, we wanted to make it broader. We wanted to look at that specifically and explicitly more than the natural environment by itself, which was always the case with our previous versions of CEAA, going right back to ERP.

In this case, I'll stop there and say that both my third and fourth amendments deal with this point.

Madam Chair, if you wanted to deal with my Green Party amendment 3 and Green Party amendment 4, they both are in response to evidence we've heard that culture is a stand-alone part of the sustainability equation. We should include it in the definition, and both my third and fourth amendments speak to that. Especially since we're slowed down by doing recorded votes, if you want to put them both together, I wouldn't object.

● (1235)

The Chair: I probably would, but we'll end up opening up more discussion, so I think we'll just do the two separately. I don't want to have more discussion about why we're doing that. Is there any discussion about what you've brought forward in PV-3?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: We'll move on to LIB-3.

Mr. Amos.

Mr. William Amos: As was alluded to just a moment ago, LIB-3 seeks to provide clarity and certainty as regards the definition of "effects" to incorporate both positive and negative dimensions as consequences of the changes.

We've heard from a number of stakeholders that this is important, both those who could be characterized as being much more pro industry and those who are on the other side of the spectrum. I think this will help clarify for stakeholders what the expectations are, and provide greater clarity to the public as well.

It will also complement other amendments that will clarify both positives and negatives and the consequences to be considered in assessments and decisions. This is going to dovetail with proposals later on in the document.

The Chair: Okay.

Mr. Sopuck.

Mr. Robert Sopuck: The Conservatives will be supporting this amendment. It's a very good amendment in our view because too much of environmental impact assessment is considered to be negative, that all that's looked at is the negative. I think it's important during these processes to talk about positive economic effects, job creation in local communities. I presume this is what this amendment will deal with.

Also, I like the fact that this amendment also reflects the fact that not all environmental change is bad. Changing an old growth forest to a young growth forest has different species and different ecological processes that are not necessarily bad. We will be voting in favour of this amendment.

The Chair: Ms. Duncan.

Ms. Linda Duncan: I'm not sure how this meshes with other parts of the bill where we talk about adverse impacts.

I find it unnecessary. I've never participated in a tribunal review where the proponent didn't spend most of the time talking about the economic benefits of the project. I think it probably conflicts with other parts of the bill that simply talk about adverse impacts.

Does this mean that we're going to remove the phrase "adverse impacts" everywhere in the bill it's stated? If so, I would find that unfortunate.

The Chair: Mr. Fast.

Hon. Ed Fast: When we're talking about adverse impacts, typically we're talking about adverse impacts to our environment. The word "consequences" as used here, by qualifying it and saying there are both negative and positive consequences, goes back to the definition of sustainability. We've heard our minister and the Prime Minister say time and time again that the economy and the environment go hand in hand.

That's why it's very important that, when we talk about consequences, which people typically would assume are negative, we clarify that they are both positive and negative. There are positive consequences for the economy. There may be some adverse impacts. We're trying to find the appropriate balance so that we have prosperity in our country and a clean and healthy environment.

● (1240)

The Chair: You'll be voting for this one.

Hon. Ed Fast: Yes.

I'm still on the fence.

The Chair: Okay, great.

Just be mindful that we really have almost no time. Please be very quick.

[*Translation*]

Mr. Joël Godin: Madam Chair, I would just like to mention that, when we analyze a situation, we have to look at the big picture. In my opinion, it is important to look at both sides of the coin. For that reason, I am going to support the Liberal Party's motion.

[*English*]

The Chair: That's great.

An hon. member: A recorded vote.

(Amendment agreed to: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: On NDP-7, if we adopt this one, NDP-8 and PV-4 can't be moved because there's a line conflict, so you'll have to make some amendments.

Ms. Linda Duncan: There were very strong concerns by witnesses and in briefs that this bill doesn't move us forward from the Harper assessment bill. Simply, it's a selective listing of effects, and there are many that are missing.

The recommendation is that it would include physical activities and designated projects, but it would also include physical activities "related to a decision by a federal authority", or that could "occur in a province other than the one where the physical activity or designated"—in order words, transboundary—or "occur in a situation where there is related financing by a federal authority, or occur in a situation that is subject to federal legislative jurisdiction". That's very important, because it's missing. And again, "affect the Indigenous peoples of Canada, including their rights as enshrined under the United Nations Declaration".

This is a common recommendation from countless briefs and testimony. People are deeply concerned with the extremely narrow definition of "effects within federal jurisdiction" in this bill. The promise was that we would have an expanded bill that would cover all matters of federal jurisdiction. If this definition remains, then we know we're going to have a continuation of the federal government not reviewing the vast number of projects in Canada.

The Chair: Is there any discussion?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Next we have NDP-8.

Ms. Linda Duncan: It's replacing a line that has a very narrow definition of indigenous rights, as "the current use of lands and resources for traditional purposes". What indigenous peoples are calling for is a much more expanded recognition of "their rights recognized and affirmed by section 35 of the Constitution Act". I would add in there "UNDRIP" as well.

The current proposed subparagraph 2(c)(ii) is extremely narrow in reflecting what are considered to be indigenous rights.

● (1245)

The Chair: Okay.

We had a bit of discussion about this already.

Next up is Mr. Fast.

Hon. Ed Fast: I find this amendment to be redundant. It simply restates the effect of section 35 of the Constitution Act, but that's already the law in Canada. We don't have to restate it in legislation. This bill already speaks to the Constitution. Jurisprudence in Canada has interpreted the Constitution in section 35, so it applies in any event. Again, it's redundant and unnecessary.

The Chair: All right. Is there any further discussion?

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Ms. May, on amendment PV-4.

Ms. Elizabeth May: Thank you, Madam Chair.

As mentioned earlier, this goes back to the recommendations of the expert panel on culture on its own being a fifth pillar of sustainability, in terms of cultural impacts and cultural conditions. It also came through in testimony by indigenous people that cultural conditions should be part of the formula of impacts that we're looking at, so between "any change...to the health, social," and "or economic conditions", we would insert the word "cultural".

Certainly there's no harm done. If the Liberals are sure that "social" covers "cultural", I'm sure they'll agree with me that in law, clarifying it by including "cultural" cannot possibly be seen as interfering with the smooth functioning of environmental assessment, impact assessment. If we want to see cultural conditions and cultural impacts considered, they should be listed.

The Chair: Is there any discussion?

An hon. member: A recorded vote.

(Amendment negatived: nays 8; yeas 1)

The Chair: Next is NDP-9.

Ms. Linda Duncan: A number of witnesses recommended that we add a definition of environmental justice. This is consistent with the testimony we heard when we reviewed the Canadian Environmental Protection Act and, in fact, recommendations made by this committee to start incorporating environmental justice into federal legislation.

The definition that was provided is as follows:

> environmental justice means the equitable distribution of environmental risks and benefits and includes fair treatment and meaningful involvement of persons regardless of their race, colour, national origin, income or membership in an historically disadvantaged group.

It's considered that this would support new assessment criteria in clause 22 and decision-making criteria in clause 63.

I agree with a number of the witnesses and those legal experts who have submitted briefs that it would be unfortunate not to include this. The very purpose of impact assessment, particularly when we're moving to strategic and regional assessments, is to make sure that we're dealing with cumulative impacts and we are ensuring that projects or developments that are being considered are not unfairly impacting specific communities. That's the nature of the beast these days, whether it's in Sarnia or in northern Alberta.

With the expansion of coal-fired power that used to happen in Alberta, we are starting to see specific communities that are bearing the brunt of impacts to a greater degree than are other Canadians. That is why it is in U.S. legislation, and it has also been recommended in the federal Canadian Environmental Assessment Act. I am also recommending that the term be added to this bill to make sure that we have equitable distribution of the risks considered when we have either the agency or panels reviewing projects or we are undertaking regional or strategic assessments.

The Chair: Thank you very much.

Mr. Sopuck.

Mr. Robert Sopuck: We strongly oppose this. This is just a clause that will result in endless litigation. What's an environmental risk? I talked earlier about environmental change. Some people say it's a risk; some people say it's a benefit. Yes, it may be a risk to change a forest to a farmed field, but there are benefits to doing that. This is so loose, so open to interpretation that it's just another job-killing clause that our friends from the NDP want to insert in this act. We'll be strongly voting against it.

● (1250)

The Chair: Mr. Fast.

Hon. Ed Fast: Madam Chair, could we ask the officials whether the term "environmental justice", as our colleague is suggesting be included in this bill, has ever been interpreted by the courts? The last thing we need, as Mr. Sopuck said, is endless litigation over a new term that's introduced in the legislation.

Do any of our officials know? Has there been a consideration of the term "environmental justice" in any of the courts in our country?

The Chair: Is there anyone who could speak to that?

Ms. Christine Loth-Bown (Vice-President, Policy Development Sector, Canadian Environmental Assessment Agency): Is there anyone from Justice? In interpretation of law, I'd refer to Justice.

Mr. Jean-Sébastien Rochon: Madam Chair, I'm afraid we're going to have to look into this. I don't have the answer to that question.

Hon. Ed Fast: Madam Chair, I don't know how we could support this if we don't even have that answer.

The term "environmental justice" is probably a term within the environmental community, but until it's been properly interpreted in the courts, why would we leave it up to an unknown interpretation and include it in this legislation? I think it would be a big mistake to include it at this time.

The Chair: Okay. Thank you.

Ms. Linda Duncan: I'd like to respond to that.

The Chair: Sure, but be quick.

Ms. Linda Duncan: The term can't be litigated until it's in the law. The majority of this committee agreed to put this term into the Canadian Environmental Protection Act. The government, in its wisdom, has not chosen to bring forward a revised Canadian Environmental Protection Act. Either this bill or that one would be the first one where it would come forward.

I'm not aware if it exists in any federal law; it may well be in provincial law. It's certainly in U.S. federal law. There's an environmental justice committee in the United States Environmental Protection Agency. It has been discussed by the Commission for Environmental Cooperation with Mexico, Canada, and the United States. It is not an unusual or a new term. It's very common throughout North America.

The Chair: I tend to agree with Linda. Until you put it in legislation and get it litigated, you really will have a hard time figuring out how it's going to land, but it is a term that is known in North America.

We're going to move forward. I think we've had enough discussion on that one.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: On NDP-10.

Ms. Linda Duncan: This is being brought forward to suggest—what a wild concept—that we actually have consistency in federal legislation. The Canadian Environmental Protection Act, some time ago, amended the law to divide up federal land and what they call in that bill "aboriginal land". It's in subsection 3(1) of CEPA 1999.

This would ensure that this act becomes consistent with the first nations final agreements, many of which have been signed, particularly across the north and in British Columbia. The land management agreements have been signed with many first nations, where they take on the responsibility for managing their own indigenous lands, and certainly is consistent with UNDRIP.

I'm doing this so that it becomes consistent with other federal laws. The Canadian Environmental Protection Act separately defines federal lands and aboriginal lands. I am recommending that the same provisions be provided in this law.

The Chair: Thank you very much.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

● (1255)

Ms. Linda Duncan: What a surprise.

The Chair: Next up is LIB-4.

Mr. Bossio.

Mr. Mike Bossio: Once again, this speaks to the amendment LIB-1 on indigenous knowledge, which we had brought forward earlier.

I apologize, Chair. I should have recognized, when you brought them together as a group, that they should all have been grouped together as one vote. I understand we're not doing that now, so I apologize for that.

This speaks to what we had spoken about before, namely:

> Indigenous knowledge means the Indigenous knowledge of the Indigenous peoples of Canada.

Rather than using the term "traditional knowledge", we would use this terminology itself.

The Chair: Okay. Is there any discussion?

An hon. member: I'd like a recorded vote.

(Amendment agreed to: yeas 8; nays 0 [See *Minutes of Proceedings*])

Ms. Linda Duncan: I abstained because I haven't been able to confer with indigenous people on this.

The Chair: Now we're on amendment NDP-11.

Ms. Linda Duncan: In this amendment, we're doing exactly what was proposed in the Liberal proposal. This same issue arose when we were reviewing the Federal Sustainable Development Act. It was discovered that the current sustainable development act and the one that has been proposed by the government, which also still has not been brought forward for final reading and debate, kept referring to "environment", not to "sustainability".

The front end of this bill and both of the preambles talk about the whole purpose of this bill being to ensure sustainability. Then it defines all of the aspects of sustainability, and "effects" mean economic, environmental, and social effects, but not cultural ones apparently. We have gone through the entire bill, and to provide consistency we propose that it speak simply of "adverse effects" rather than "environmental effects". If the intention of the government is to send the message that we're no longer limiting reviews to the impacts on the environment, but are also looking at social impacts and economic impacts, why have we reverted back to the word "environmental"?

This amendment goes through, as much as we could, the entirety of the bill. When you get to page 47, we have added a definition of "adverse effects" rather than "environmental effects". That would be the same, consistently, as impacts on "the environment, health, social, cultural or economic conditions".

I looked at what the Liberals brought forward on the sustainability act, which were the same amendments that I brought forward. The government, in its wisdom, obviously agreed and said, yes, we should be speaking to sustainability, not to environment, because that's what the sustainable development goals are. They're much bigger than just impacts to the environment.

This bill supposedly is going to deliver an impact assessment process that goes far beyond just environmental impacts. I have endeavoured to reflect that throughout the bill, so wherever it would say "environmental effects", instead it would say "adverse effects".

The Chair: I just want to bring to your attention that if it's adopted, amendments LIB-6 and PV-68 cannot be moved, because there will be a line conflict.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Now we have amendment NDP-12.

Ms. Linda Duncan: Committee members know that we heard from the Federation of Canadian Municipalities its disappointment that municipalities are not included specifically in the bill. This amendment addresses their specific request.

After line 18 on page 7, and the words "the government of a province", we would add "(c.1) the government of a municipality".

● (1300)

The Chair: Okay. There could be some discussion here—

Ms. Linda Duncan: Mr. Sopuck would like that.

The Chair: —based on previous comments.

Are there any comments?

Go ahead.

Mr. Robert Sopuck: Does the Constitution recognize municipalities as governments?

Hon. Ed Fast: No.

The Chair: I think that's the challenge here.

Mr. Parker, please.

Mr. Brent Parker (Director, Legislative and Regulatory Affairs Division, Canadian Environmental Assessment Agency): I can speak to that in the context of this act.

In the subsequent provision under the definition of "jurisdiction", paragraph (d) actually outlines "any agency or body that is established under an act of the legislature of a province". That covers municipalities.

Hon. Ed Fast: They're creatures of the provinces, so paragraph (d) covers them.

The Chair: Perfect. Thank you very much for that clarification. That was helpful.

Ms. Linda Duncan: Can I speak to that?

The Chair: Sure, very quickly.

Ms. Linda Duncan: I don't believe that all municipalities have duties, functions, and powers related to assessing the environmental effects of designated projects, so it's a very narrow provision. Unless you happen to be a municipality.... A small town probably doesn't have legislation allowing it to assess the environmental impacts of a project. They can appear and testify, but....

The Chair: Yes, there is a qualifier there, so maybe you can speak to that.

Mr. Brent Parker: It does speak for itself in the way that member Duncan outlined. You would have to have functions related to an impact assessment in order to be recognized as a jurisdiction there.

The Chair: Monsieur Godin.

[*Translation*]

Mr. Joël Godin: Madam Chair, I would like to hear opinions from the experts at the end of the table about this question.

If we agree to this amendment, is there a risk that the act will be confusing and invalid?

[*English*]

Mr. Brent Parker: I can't opine on whether to accept it, but certainly, from a technical perspective, there is provision to be included now as a jurisdiction where there is an implication of their being involved in the impact assessment. The proposed amendment would expand that to include all municipalities, as I understand it, so it would be different from what's proposed here.

The Chair: Thank you.

Mr. Fast.

Hon. Ed Fast: To our officials, is there other federal legislation that specifically references municipalities, as opposed to what is defined here, which is "any agency or body that is established under an Act of the legislature of a province"?

The Chair: If you could, please respond.

Ms. Christine Loth-Bown: I would turn to our Justice colleagues for interpretation of other pieces of legislation.

Mr. Jean-Sébastien Rochon: Madam Chair, off the top of my head, I don't know of such legislation. If you'll allow me a minute or two, I can look it up for you.

The Chair: Okay.

Do you want to put this aside and move to the next one?

Hon. Ed Fast: I think we should.

The Chair: I'm okay with waiting to get clarification.

We'll move on, if we can. The next is PV-5.

Ms. May.

[*Translation*]

Ms. Elizabeth May: Thank you, Madam Chair.

This is amendment PV-5.

[*English*]

Originally when I started bringing amendments to committee, someone said that, if we call it "G" for Green, we're going to think it's "government". That's why we're going to call them all PV, in case you're wondering. It's *Parti Vert-5*. One day it will mean "government", but for now and for the foreseeable future, it means *Parti Vert*.

It's a very strange section that I propose to delete. I can't imagine what it's doing in here. The minister said to us just the other day that the key principle is one project, one assessment. We all know that, for many years, that has gone in the direction of joint reviews: joint panel reviews and federal-provincial reviews. One project, one assessment: we've been doing this for a very long time.

Although my amendment starts with a change to page 8, that's just to keep consequentially what happens on page 29, which is the limitation on the establishment of a joint review panel under subsection 39(2). I propose to delete it. This is the advice from briefs, particularly from the Canadian Environmental Law Association. In a nutshell, the current law says that the minister can appoint a joint review panel based on striking an agreement with another jurisdiction, except if it's a pipeline or a nuclear reactor. Nothing regulated under the Canadian energy regulator or the Nuclear Safety and Control Act can go to a joint review.

I'm baffled. This contradicts the minister's intention entirely. It's in flat out conflict with the government's stated goal of one project, one assessment. I'm baffled by it, and it makes no sense. The brief we have from the Canadian Environmental Law Association said, "We are unaware of any persuasive public interest rationale for this highly questionable prohibition." Not only are they unaware of any rationale, it runs directly contrary to what the minister said she wants to do with this bill. Please delete it.

● (1305)

The Chair: Is there any further discussion?

Does anybody want a pause to consider?

[*Translation*]

Mr. Joël Godin: Madam Chair, I would like to point out another grammatical error in the Green Party's amendment number 5.

If I read it correctly, after the words "aux lignes 33 et 34", we have this: "d) au titre d'un accord conclu en vertu des paragraphes 39(1) ou (3)", but in the amendment, only paragraph (3) is being replaced.

It is a question of grammar. I am not sure if you understand me. In the French version, it says that "projet de loi C-69, à l'article 1, soit modifié par substitution, aux lignes 33 et 34, page 4, de ce qui suit:

d) au titre d'un accord conclu en vertu du paragraphe 39(3)"

There's a figure missing.

[*English*]

The Chair: Give us a minute. We'll look it up to see what happened there. There was a little bit of challenge with the translation of what you were saying.

Ms. Elizabeth May: Please understand what he's saying.

The Chair: Yes, it's the intention.

Ms. Elizabeth May: What he's saying, I think, because I wasn't listening to anything but the French, is that when we take out 39(2), we'll have 39(1) and 39(3). So we could make a consequential amendment to change 39(3) to 39(2) to make it clearer

[*Translation*]

If I understood what you said correctly.

Mr. Joël Godin: Actually, it is either 39(1) or (3); you have indicated paragraph (3), but we have forgotten paragraph (1).

Ms. Elizabeth May: Not in my amendment.

Mr. Joël Godin: Yes, in your amendment.

[*English*]

The Chair: Okay, we're going to take a pause for two minutes, just to get squared up. Thanks.

● _____ (Pause) _____ ●

● (1310)

The Chair: We'll resume.

On PV-5, I think it has been resolved.

Monsieur Godin, all good?

[*Translation*]

Mr. Joël Godin: Yes, thank you.

[*English*]

The Chair: Okay, great.

Was there any discussion on PV-5?

Yes, Mr. Fisher.

Mr. Darren Fisher: Madam Chair, I can't find it right now, but I'm pretty sure that LIB-26 does pretty much, if not exactly, what Ms. May is contemplating here.

The Chair: According to the legislative clerk, it's not exactly the same.

Mr. Darren Fisher: Is it not the same?

The Chair: No. It's the same issue but not the same intent.

Mr. Darren Fisher: As LIB-26? I think it more reflects how we want to move forward.

The Chair: Okay. We'll wait until we get to that one.

Mr. Darren Fisher: Thank you, Madam Chair.

The Chair: Just before you vote, if PV-5 is adopted, PV-43, NDP-11, and PV-46 cannot be moved, because there would be a line conflict. I just want you to be aware of that as you vote on PV-5.

Yes.

Ms. Elizabeth May: I just found LIB-26, and I can't understand how LIB-26 does anything to deal with the conflict of our being disallowed by this legislation from having a joint review panel if the matter is before the Canadian Nuclear Safety Commission or the Canadian energy regulator—unless I'm misreading this.

I know it's not essential for my amendment to know there's one coming later, but I don't think the one that comes later.... If you're counting on LIB-26 to fix this, I don't think it does.

While we're pausing just to consider what the Liberal members of committee would really like to do, it doesn't make sense to me that this limitation in 39(2) is there. Deleting it is the most straightforward thing to do. You're replacing lines 19 to 22, which I delete, and the minister is still not authorized. It still says that the minister is not authorized, under your amendment.

Therefore, if you want to make sure that you deal with this, please pass mine.

● (1315)

The Chair: All right.

Hon. Ed Fast: I'd like a recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: Can we go back to NDP-12 on which there was a bit of discussion? Do we have that settled yet?

Mr. Jean-Sébastien Rochon: Thank you, Madam Chair.

There are a number of references to municipalities in federal legislation. Some of them are for descriptive purposes to identify a location. Others are in reference to specific functions under statutes —although this search of mine is by no means exhaustive. For instance, under the Nunavut Planning and Project Assessment Act, a municipality is considered a regulatory authority.

The Chair: That's helpful.

Is there any further discussion on NDP-12?

Mr. Robert Sopuck: Can we have a recorded vote.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: That did not carry, but it was closer.

Next, we have NDP-13.

Ms. Linda Duncan: This goes to the definition of sustainability.

I would say that the definition of sustainability in this act is very outdated. The current government has signed on to and endorsed the 2030 agenda for sustainable development, which far exceeds what is listed here. If the government wants to stand by its commitment to all of the segments of what sustainability consists of, I would encourage us to adopt this definition.

It would make Canada consistent, which would give us the ability to contribute to the sustainable development goals set forth in the resolution entitled "Transforming Our World: the 2030 Agenda for Sustainable Development" and adopted by the General Assembly of the United Nations. I would also add that this agenda for sustainability, on which the G7 Canadian agenda is set, includes rights for women.

The definition that is there right now does not match what the government is claiming it now believes is sustainability.

The Chair: Okay.

Go ahead, Mr. Fast.

Hon. Ed Fast: First, I have a question for our officials. Is the term "sustainability" defined in any Canadian legislation at present?

My comment is this. Canada is a sovereign nation. Why are we still always deferring to the United Nations? When we're talking about sustainability, Canada should be determining what that term means, on its own and without kowtowing to a multilateral organization that has less information and less knowledge about our own circumstances in Canada.

If you want a definition of sustainability, let it be a Canadian one.

The Chair: Okay.

We did this with the first act that we studied, the Federal Sustainable Development Act.

Hon. Ed Fast: Right.

The Chair: I'm pretty sure there was a definition in there. We can ask the officials. Is sustainability defined in an act?

I point to the Federal Sustainable Development Act, but go ahead.

Mr. Jean-Sébastien Rochon: That would be correct, Madam Chair. In the Federal Sustainable Development Act, sustainability means "the capacity of a thing, action, activity or process to be maintained indefinitely".

The Chair: Okay.

Ms. Linda Duncan: I actually made this exact same amendment when we reviewed the Federal Sustainable Development Act.

I'm being consistent.

The Chair: Okay.

Hon. Ed Fast: So are we.

The Chair: There you go.

Mr. Robert Sopuck: Can we have a recorded vote?

The Chair: Okay.

Wait a minute. I just want to make a ruling.

If we do adopt this, then NDP-14 cannot be moved because there will be a line conflict. I just want to make sure that you know that before you vote. Sorry.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*)

● (1320)

The Chair: All right.

We're moving to NDP-14.

Ms. Linda Duncan: Let's try another definition.

This is the one put forward by a number of Canadian environmental law organizations including Ecojustice, Nature Canada, and West Coast Environmental Law. Their proposed replacement definition would be:

> Sustainability means protecting, restoring or enhancing the environment, equitably contributing to the social and economic well-being of the people of Canada, and preserving their health in a manner that equitably benefits present and future generations and that achieves mutually reinforcing, cumulative and lasting gains.

The Chair: Thank you very much.

(Amendment negatived [See *Minutes of Proceedings*])

Next is amendment PV-6.

Ms. May.

Ms. Elizabeth May: Thank you, Madam Chair. This amendment is in response to testimony—I think every member remembers how much information we heard from indigenous peoples, particularly from the Assembly of First Nations. We've already touched on it in the clause-by-clause today, the fact that "traditional knowledge" as a term is problematic. We've seen it now as also uncertain, particularly if you think of "traditional" in the sense of being frozen-in-time, as picture knowledge in a Mason jar, and sealed as is. Indigenous people have talked to us about the fact that there are innovations, new understandings that come from indigenous knowledge systems. We don't want to have a definition of traditional knowledge that excludes the way in which indigenous information evolves over time. Indigenous knowledge systems deliver information in a way that we want to continue to access.

I've changed the definition on page eight, after line 36, to say, "traditional knowledge of the Indigenous peoples of Canada includes information acquired from Indigenous knowledge systems."

This is directly from briefs. In the bill there's no definition. I've inserted it between "sustainability" and "rights of indigenous peoples". Later on I actually change it. There's a similar change made down the bill at my 84th amendment.

Going back to this one, I'm inserting a new definition between "sustainability" and "rights of indigenous peoples" to create clarity around what we mean by "traditional knowledge."

The Chair: There was a question. Did we approve anything to do with indigenous knowledge? We did, but we just changed the term "traditional knowledge" to "Indigenous knowledge." That's all we've done so far. We haven't done anything else. I just wanted to clarify that for the members who were asking.

Ms. Duncan.

Ms. Linda Duncan: I know there is at least one provision that specifically deals with confidentiality in traditional knowledge. Are there other places in the bill where we need to specifically reference "traditional knowledge", or has it been changed to "Indigenous knowledge" throughout?

That is one place where that specific term would be needed, unless we are changing it, even in that section. I can't remember which section it is, but it's where we talk about ensuring confidentiality of traditional knowledge that is submitted during an impact assessment.

The Chair: We haven't done that. I was going to try to group things, but we're doing them one by one.

Ms. Linda Duncan: It's not grouping them. Haven't we said that we're going to change it everywhere in the act?

The Chair: We said we are going to change it as it comes up. There was a bit of a challenge—

Ms. Linda Duncan: Okay, well, it's come up, so we need the definition.

The Chair: As it's come up, we're going to vote on it.

Ms. Linda Duncan: I don't see how we can vote on it.

The Chair: Go ahead.

Hon. Ed Fast: Madam Chair, this is the definition of "traditional knowledge." Earlier we dealt with the definition of "indigenous knowledge" and presumably distinguished between the two. Why are we using two terms here? My understanding is that there is supposed to be consistency in the terminology we use.

● (1325)

The Chair: Yes, but it's an amendment that's before us and we're going to vote on it.

Hon. Ed Fast: Okay.

The Chair: Are there any other comments?

Hon. Ed Fast: No.

Ms. Linda Duncan: In section 119, "traditional knowledge" is specifically referenced.

The Chair: We haven't gotten there yet. We're working away.

(Amendment negatived: nays 8; yeas 1)

Next is amendment NDP-15.

Ms. Linda Duncan: We had lengthy discussions on this matter when we reviewed, as a committee, the Canadian Environmental Protection Act. We had extensive witness testimony.

My understanding is our committee recommended that the Canadian Environmental Protection Act now incorporate the term "vulnerable population" for the same reason we talked about environmental justice. It specifically includes any group or community especially vulnerable to environmental or health risks as a result of biological, social, economic, geographic, or other factors.

It is an important matter for review panels or the agency, when they are reviewing proposed projects, to also assess whether or not there may be vulnerable populations, rather than their just looking at generalities.

The Chair: Do you usually put a definition where it comes up in the document? Have you got it coming up somewhere else?

Ms. Linda Duncan: I don't think I have added it anywhere yet.

The Chair: Because a definition usually is reflecting on defining it for the document.

Mr. Sopuck.

Mr. Robert Sopuck: Yes, that's the issue. How do you define a vulnerable population? This particular wording freezes communities in time, and what happens in market economies is that there is often change, and the change can be disruptive. For example, large-scale agriculture displaces small-scale agriculture. The benefits, of course, are inexpensive and very healthy food, but at the same time, the disadvantages, as I see in my own constituency, are communities in decline.

In a dynamic market economy, we have to allow for that kind of change, and some of it is temporarily difficult for some to bear. Without allowing for economic change, our country simply could not move ahead. I will certainly be voting against this.

The Chair: Mr. Godin.

[*Translation*]

Mr. Joël Godin: I feel that it is quite laudable of my colleague to want to insert that definition in the bill, except that we must not compartmentalize, select, or define groups. The legislation must be in place for all Canadians and it must not establish specific categories. We must view legislation very broadly; that is why it is not appropriate to define groups within it.

So I am not very receptive to my colleague's proposal.

Thank you, Madam Chair.

[*English*]

The Chair: All right. I'm sorry about that.

It was mentioned in one of your amendments, which was NDP-2, and that's probably why it came up. I want to make sure that I close that loop.

Mr. Robert Sopuck: Recorded vote.

(Amendment negatived: nays 8; yeas 1 [See *Minutes of Proceedings*])

The Chair: I'm looking at the clock, and we're probably done.

Tomorrow we have the athletes in the House, so we'll be delayed getting to committee. Given the pace and the interest in giving everyone a chance to discuss these amendments as they come forward, would there be an agreement in the committee to extend to 8 o'clock tomorrow? We would go from whenever we get in, which hopefully will be before 4, and then go for four hours and get as much done as we can?

● (1330)

Ms. Linda Duncan: No. I need the evening to prepare for the next day.

The Chair: I know there's an interest here to try to get as much time to discuss—

Ms. Linda Duncan: I need the evening to prepare for the three-hour meeting the next day.

The Chair: I'm trying to get a little bit more time for discussion, so that we can do that, but if there's no agreement around the committee—

Mr. Darren Fisher: How about 7 o'clock?

The Chair: Is 7 o'clock acceptable?

Ms. Linda Duncan: How about another day?

The Chair: There is no other day, because on Thursday, we have —

Ms. Linda Duncan: Oh, because the government wants it fast-tracked, right?

The Chair: No. Because there's a funeral on Thursday. So there's a change in that—

Ms. Elizabeth May: Are we not meeting on Thursday?

The Chair: I'm planning at this point to meet on Thursday.

Ms. Elizabeth May: That's what I'm wondering about since we're having a Wednesday schedule on Thursday. I know that a lot of people would like to go to Gord Brown's funeral. I would want to go. If Thursday is to be on a Wednesday schedule, we will have a lot more hours, as we won't have to be in the House for other things. I'm just wondering if Thursday gives us more time to expand.

Mr. Mike Bossio: We already go from 11 until 2 o'clock.

The Chair: We're doing the regular schedule from 11—

Ms. Elizabeth May: We could start at nine and go....

The Chair: I'm open, but—

Ms. Elizabeth May: I'm not on the committee. I'm just saying that we need more time.

The Chair: I made a suggestion for tomorrow. Let's see how we go. I'm understanding that there might be some agreement to go until 7 or 7:30?

Ms. Linda Duncan: Until seven.

The Chair: Okay. It will be till 7 o'clock, and we'll do that tomorrow. We'll see how we go. We'll keep trying to work at giving ourselves the time we need. Okay? Thank you very much.

The meeting is adjourned.

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